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TO: Chairman Roberts and Commissioners, Miami County BOCC
FROM: Jim Kaup
DATE: October 13, 2021, FINAL
RE: **Golden Incorporation; Categorization of Public Record Materials, by 17 Factors**

The petition to incorporate territory in north-central Miami County as the City of Golden was submitted to the County on April 9, 2021.

As outside counsel retained by the BOCC to assist in the consideration of the petition I determined the petition met the applicable statutory requirements, and so advised the County, by memo dated May 4, 2021.

Soon thereafter the County started to accept submissions from the public and others, both in support of and in opposition to the requested incorporation. The BOCC also received a considerable amount of information which was not submitted for support or in opposition to incorporation, but which pertained to the 17 factors the BOCC will consider as it makes its decision on incorporation. These factors are noted below.

This memo categorizes, by each factor, the materials in the public record.

The record materials came to the BOCC during four periods of time:

1. Between the time of the April 9, 2021 submission of the incorporation petition and June 11, 2021. The “pre-hearing” period.
2. During the June 23, 2021 public hearing held in Paola.
3. Between June 23 and June 30, 2021. The “post-hearing” period.
4. Between July 1 and September 22, 2021, the BOCC received numerous documents and presentations from experts on subjects relevant to the 17 factors, including KDHE, the Miami County Sheriff, Appraiser, Planning Director and Road and Bridge Director. Presentations were also received from a number of consultants and from officials from area cities, among others. The BOCC did receive, at its request, a few follow-up documents from area cities and the County Appraiser between September 22 and October 6, 2021.

This memo attempts to identify all the public record material posted on the County’s website. A general reference is made to the hundreds of emails from the public and other interested parties that were submitted. Extensive excerpts from those emails were provided the BOCC at its August 4 study session, but such emails are posted on the website in their entirety.

As all presentations at BOCC study sessions, and the June 23, 2021 public hearing, were video recorded and posted on the County website, those videos are listed below only in a few instances.

The 17 factors the BOCC will apply are as follows:

FACTORS FOR BOCC CONSIDERATION

State law (K.S.A. 15-121) sets out 14 factors that the Board is to consider when determining the advisability of incorporating territory as a new city. Those factors are:

- 1) Population and population density of the area within the boundaries of the territory;
- 2) Land area, topography, natural boundaries, and drainage basin;
- 3) Area of platted land relative to unplatted and assessed value of platted land relative to assessed value of unplatted areas;
- 4) Extent of business, commercial, and industrial development;
- 5) Past expansion in terms of population and construction;
- 6) Likelihood of significant growth in the area, and in adjacent areas, during the next ten (10) years;
- 7) The present cost and adequacy of governmental services and controls in the area and the probable effect of the proposed action and of alternative courses of action on the cost of adequacy of local governmental services and regulation in the area and in adjacent areas;
- 8) Effect of the proposed action, and of alternative actions, on adjacent areas, and on the local governmental structure of the entire urban community.
- 9) The size and population of any existing city within five miles of the territory;
- 10) The (existing) city's growth in population, business and industry during the past ten (10) years;
- 11) The extension of the (existing) city's boundaries during the past ten (10) years;
- 12) The probability of the (existing) city's growth toward the territory during the ensuing ten (10) years, taking into consideration natural barriers and other reasons which might influence growth toward the territory;
- 13) The willingness of the (existing) city to annex the territory and its ability to provide city services in case of annexation;
- 14) The general effect upon the entire community, should there be additional cities in the area; all of these and other considerations having to do with the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments.

In addition, the BOCC has identified three of its own factors:

- 15) What plans do the petitioners have for the city to provide municipal services, such as law enforcement, and for public infrastructure, such as street improvements and maintenance?
- 16) Are there alternatives to incorporation that would achieve the objective of petitioners to "preserve their large lot residential and agriculture-friendly way of life while accommodating appropriate new development"?
- 17) What are the likely impacts upon Hillsdale Lake and its watershed from:

- a) annexation followed by expansion of LPKC into Miami County
- b) continued low-density residential and ag use of land in the Golden area

RECORD MATERIALS; GOLDEN INCORPORATION

1) Population and population density of the area within the boundaries of the territory.

Population:	776
Land area:	5,358.41 acres
Population density per acre:	.14
Population density per 10 acres:	1.4
Population density per sq. mile	86

Source:

- 1. Petition for incorporation (for land area)
- 2. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
- 3. "June 23rd Rebuttal from Jennifer Williams", email, Williams, 6/30/21

2) Land area, topography, natural boundaries, and drainage basin.

Land area:	5,358.41 acres
Topography:	Predominantly cropland, pastures and woodlands, on level to gentle rolling hills
Natural boundaries:	Hillsdale Lake and surrounding federal and state land
Drainage basin:	Hillsdale Lake Watershed, with total acreage of 92,000 acres. Entire area of Golden is in this watershed

Source:

- 1. Petition for incorporation (for land area)
- 2. "Proposed City of Golden Planning/Zoning Report", Reeves, presented 8/18/21

3) Area of platted land relative to unplatted and assessed value of platted land relative to assessed value of unplatted areas.

Platted land:	1013 acres
Unplatted land:	4377 acres
Total:	5390
Assessed value of platted land:	\$5,983,405
Assessed value of unplatted land:	\$8,305,915
Total:	\$14,289,320

Source:

1. Petition for incorporation, with certified information provided by Miami County Appraiser Justin Eimers
2. Email "2021 Values-Platted vs. Unplatted", Eimers, Miami County Appraiser, 10/4/21

4) Extent of business, commercial and industrial development.

The BOCC understands this factor to be referring to development within the area of the proposed incorporation.

The record shows there to be very little non-agricultural, non-residential development within the approximate nine square miles of the Golden area. Further, the record shows that the County's comprehensive plan and zoning does not anticipate or accommodate such development at this time.

Petitioners' Submission:

1. Petition for incorporation

Opponents' Submission:

1. "Citizens Opposed to the Formation of the City of Golden, KS"
-- Presented at 6/23/21 public hearing

Other:

1. "Proposed City of Golden Planning/Zoning Report", Reaves, Miami County Planning Director, presented 9/18/21
2. Lenk memo, MARC forecasts for population and employment, 7/1/21, presented 9/8/21
3. "MARC Forecast of Population and Employment", Kaup memo, with attachment, presented 9/8/21

5) Past expansion in terms of population and construction

Population increase, 2010-2020, in Golden territory: could not determine
 Number of building permits for new residences issued 2010-2021
 in Golden territory: 20

6) The likelihood of significant growth in the area, and in adjacent areas, during the next ten (10) years

The consensus understanding of the BOCC is that "area" means the proposed Golden territory, and "adjacent areas" means the area within five (5) miles of the proposed Golden territory.

Petitioners' Submission:

1. Petition for incorporation
2. "Letter in support of Golden Kansas", Williams email, 6/11/21

3. "Golden, KS Incorporating the Unincorporated", Williams email, 6/11/21
4. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
5. Video, Williams, 6/11/21
6. "June 23rd Rebuttal from Jennifer Williams", email, Williams, 6/30/21

Opponents' Submission:

1. "Citizens Opposed to the Formation of the City of Golden"
--Presented at the 6/23/21 public hearing

Other:

1. Transcript of 6/23/21 public hearing
2. "Major Points for Golden Proponents and Opponents", Kaup memo, presented 8/4/21
3. "Excerpts from Transcript of June 23, 2021 Public Hearing", Kaup memo, presented 8/4/21
4. "Excerpts from Public Comments" submitted 5/24-6/11/21, Kaup memo, presented 8/4/21
5. "Excerpts from Public Comments" submitted 6/24-6/30/21, Kaup memo, presented 8/4/21
6. "Comprehensive Plan Provisions from Area Cities Relevant to Golden Area", Kaup memo, with attachments, presented 9/8/21
7. "NE Kansas Logistics Cluster-Statewide Impact", August 2021, prepared by WSU School of Business at the direction of the Kansas Dept. of Commerce, presented 9/8/21
8. "KDOC Report on LPKC", Kaup memo, presented 9/8/21
9. "Summary of Draft Comp Plan's 'Public Survey'", Kaup memo, with attachments, presented 9/8/21
10. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
11. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
12. Presentation by Edgerton city officials, video, 9/25/21
13. Handouts provided by City of Edgerton at presentation on 9/25/21
14. Lenk memo, MARC forecasts for population and employment, 7/1/21, presented 9/8/21
15. "MARC Forecast of Population and Employment", Kaup memo, with attachment, presented 9/8/21
16. Emails submitted by public 4/21-6/30/21, posted on County website

7) The present cost and adequacy of governmental services and controls in the area

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4. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
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4. Excerpts From Public Comments submitted 6/24-6/30/21, Kaup memo, presented 8/4/21
5. Emails submitted by public 4/21-6/30/21 posted on County website
6. "Major Points for Golden Proponents and Opponents", Kaup memo, presented 8/4/21
7. Transcript and video, presentation with sample law enforcement agreement, by Miami County Sheriff Kelly, presented 8/11/21
8. "Petition to Create the City of Golden", memo by Miami County Counselor Woodard, presented 8/11/21
9. "Proposed City of Golden R&B Presentation", with attachments, McMahon, Director, Miami County Road and Bridge Department, presented 8/18/21 and 9/1/21
10. "Proposed City of Golden Planning/Zoning Report", Miami County Planning Director Reeves, presented 9/18/21
11. "Comprehensive Plan Provisions from Area Cities Relevant to Golden Area", Kaup memo, presented 9/8/21
12. "Estimating the First Year Costs for Operation of City of Golden", Kaup memo, with attachment, presented 9/8/21
13. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
14. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
15. "Summary of Draft Comp Plan's 'Public Survey'", Kaup memo, with attachments, presented 9/8/21

8) Effect of the proposed action, and of alternative actions, on adjacent areas, and on the local government structure of the entire community

The BOCC has a consensus understanding that "adjacent areas" and "entire community" refer to the area within five (5) miles of the Golden territory.

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1. Petition for incorporation
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3. "Golden, KS Incorporating the Unincorporated", Williams, 6/11/21
4. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
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5. "Excerpts from Public Comments" submitted 6/24-6/30/21, Kaup memo, presented 8/4/21
6. Transcript and video, presentation and sample law enforcement agreement, by Miami County Sheriff Kelly, 8/11/21
7. "Questions and Answers Pertaining to the Proposed Incorporation of Golden, Kansas", Eimers, Miami County Appraiser, presented 8/25/21
8. Memo, follow-up regarding questions on effects upon property values, Eimers, Miami County Appraiser, presented 10/6/21
9. "Comprehensive Plan Provisions from Area Cities Relevant to Golden Area", Kaup memo, with attachments, presented 9/8/21
10. "Proposed City of Golden R&B Presentation", with attachments, McMahon, Director, Miami County Road and Bridge Department, presented 8/18/21
11. "Summary of Draft Comp Plan's 'Public Survey'", Kaup memo, presented 9/8/21
12. "Estimating the First Year Costs for Operation of City of Golden", Kaup memo, with attachment, presented 9/8/21
13. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
14. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
15. Presentation by Edgerton city officials, video, 9/25/21
16. Handouts provided by City of Edgerton at presentation on 9/25/21
17. "Petition to Create the City of Golden", memo by Miami County Counselor Woodard, 8/11/21
18. Emails submitted by public, 4/21-6/30/21, posted on County website

9) The size and population of any existing city within five miles of the territory.

Edgerton: 4 sq. miles
1,617

Gardner: 12.24 sq. miles
21,528

Spring Hill: 8.9 sq. miles
1.8 sq. miles in Miami County
7,600

Source:

1. "Golden; Response from Area Cities", Kaup memo, with attachments, presented 9/8/21
2. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
3. U.S. Census.

10) The city's growth in population, business and industry during the past ten (10) years.

Edgerton:	1,671	2010 Census
	1,617	2020 Census
Gardner:	19,123	2010 Census
	23,287	2020 Census
Spring Hill	5,428	2010 Census
	7,952	2020 Census

Source:

1. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
2. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
3. U.S. Census
4. Video of presentation by Edgerton city officials, 9/25/21
5. Handouts provided by City of Edgerton at presentation on 9/25/21

11) The extension of the city's boundaries during the past ten (10) years.

Edgerton: 2.21 sq. miles in 2010
7.41 sq. miles in 2020
Increase of 5.2 sq. miles

Gardner: 10.11 sq. miles in 2010
12.02 sq. miles in 2020
Increase of 1.91 sq. miles

Spring Hill: 6.73 sq. miles in 2010 in Johnson Co.
7.12 sq. miles in 2020 in Johnson Co.
Increase of .39 sq. miles
1.77 sq. miles in Miami Co. in 2010, City of Spring Hill
1.77 sq. miles in Miami Co. in 2020, City of Spring Hill

Source:

1. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
2. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
3. U.S. Census

12) The probability of the city's growth toward the territory during the ensuing ten (10) years, taking into consideration natural barriers and other reasons which might influence growth toward the territory.

Record Material:

1. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
2. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
3. Video of presentation by Edgerton city officials, 9/25/21
4. Handouts provided by City of Edgerton at presentation on 9/25/21

13) The willingness of the city to annex the territory and its ability to provide city services in case of annexation.

Record Material:

1. "Golden; Responses from Area Cities", Kaup memo, with attachments, presented 9/8/21
2. "Follow-up Requests for Information from Edgerton, Gardner and Spring Hill", presented 10/6/21
3. Video of presentation by Edgerton city officials, 9/25/21
4. Handouts provided by City of Edgerton at presentation on 9/25/21

14) The general effect, should there be additional cities in the area; all of these and other considerations having to do with the overall orderly and economic development of the area and to prevent an unreasonable multiplicity of independent municipal governments.

The BOCC understood this to be a broadly-stated factor, with some undefined terms. The BOCC defines "in the area" as the area within five (5) miles of the Golden area.

Petitioners' Submission:

1. Petition for incorporation
2. Email "Letter in Support of Golden Kansas", Williams, 6/11/21
3. "Golden, KS Incorporating the Unincorporated", Williams, 6/11/21
4. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
5. Video, Williams, 6/11/21
6. "June 23rd Rebuttal from Jennifer Williams", email, Williams, 6/30/21

Opponents' Submission:

1. "Citizens Opposed to the Formation of the City of Golden, KS"
--Presented at 6/23/21 public hearing

Other:

1. Public hearing transcript, 6/23/21
2. "Major points for Golden Proponents and Opponents", Kaup memo, presented 8/4/21
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9. "Comprehensive Plan Provisions from Area Cities Relevant to Golden Area", Kaup memo, with attachments, presented 9/8/21
10. "Summary of Draft Comp Plan's 'Public Survey'", Kaup memo, with attachment, presented 9/8/21
11. "Questions and Answers Pertaining to the Proposed Incorporation of Golden Kansas", and video presentation, Eimers, Miami County Appraiser, presented 8/25/21
12. Transcript and video, presented with sample law enforcement agreement, Miami County Sheriff Kelly, presented 8/11/21
13. Presentation of Miami County Road and Bridge Department, Director McMahan video, presented 8/18/21
14. "Estimating the First Year Costs for Operation of City of Golden", Kaup memo, with attachment, presented 9/8/21
15. "Golden; Responses from Area Cities", Kaup memo, presented 9/8/21, with attachments
16. "Proposed City of Golden", report by McMahan, Director, Miami County Road and Bridge Department, presentations on 8/18/21 and 9/1/21

17. "Petition to Create the City of Golden", memo and presentation by Woodard, Miami County Counselor, 8/11/21
18. Memo to Commission, Eimers, Miami County Appraiser, 10/6/21

15) What plans do the petitioners have for the city to provide municipal services, such as law enforcement, and for public infrastructure, such as street improvements and maintenance?

Petitioners' Submission:

1. Petition for incorporation
2. Email "Letter in Support of Golden Kansas", Williams, 6/11/21
3. "Golden, KS Incorporating the Unincorporated", Williams, 6/11/21
4. Interlocal Agreement (example), attorney Parker, presented at 6/23/21 public hearing
5. "Golden, KS We Are Golden", Williams PowerPoint, 6/11/21
6. "June 23rd Rebuttal from Jennifer Williams", email, Williams, 6/30/21

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6. "Major Points for Golden Proponents and Opponents", Kaup memo, presented 8/4/21
7. Transcript and video, presented with sample law enforcement agreement, Miami County Sheriff Kelly, presented 8/11/21
8. "Proposed City of Golden R&B Presentation", report and attachments, by McMahon, Director, Miami County Road and Bridge Department. Presentations on 8/18/21 and 9/1/21
9. Email "Road and Bridge Presentation to BOCC", September 1, McMahon
10. "Estimating the First Year Costs for Operation of City of Golden," Kaup memo, with attachment, presented 9/8/21
11. Presentation by Woodard, Miami County Counselor, 8/11/21

16) Are there alternatives to incorporation that would achieve the objective of petitioners to “preserve their large lot residential and agriculture-friendly way of life while accommodating appropriate new development”?

Petitioners and other supporters of incorporation told the BOCC that preserving their “rural way of life” or the “rural character” of the Golden area was their objective, and that incorporation was the means they selected to achieve that end.

The BOCC undertook to identify whether there were any alternative means whereby the objectives of those citizens could result without incorporation.

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Opponents’ Submission:

1. “Citizens Opposed to the Formation of the City of Golden, KS”
--Presented at 6/23/21 public hearing

Other:

1. “Alternatives to Incorporation”, Kaup memo, presented 9/22/21
2. Maps showing parcels of land in the Golden area, relating to K.S.A. 12-520(b), Schultz, presented 9/22/21
3. Discussion of conservation easements, restrictive covenants, Miami County Counselor Woodard, presented 9/22/21
4. Public hearing transcript, 6/23/21
5. “Proposed City of Golden Planning/Zoning Report”, Miami County Planning Director Reeves, presented 8/8/21
6. “Major Points for Golden Proponents and Opponents”, Kaup memo, presented 8/4/21
7. Excerpts from transcript of 6/23/21 public hearing, Kaup memo, presented 8/4/21
8. Excerpts from public comments 5/24-6/11/21, Kaup memo, presented 8/4/21
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12. “Golden; Responses from Area Cities”, Kaup memo, presented 9/8/21, with attachments
13. “Summary of Draft Comp Plan’s Public Survey”, Kaup memo, presented 9/8/21

- 17) What are the likely impacts upon Hillsdale Lake and its watershed from:**
- a) Annexation followed by expansion of LPKC into Miami County**
 - b) Continued low-density residential and ag use of land in the Golden area**

This factor was chosen by the BOCC due to the importance it sees of Hillsdale Lake and its watershed as a primary public water supply source and its value as an economic and natural resource.

The BOCC received considerable material some of which was conflicting, especially with regards to the effect of industrialization in the watershed.

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- 5. Emails and letters submitted 4/21-6/30/21 and posted on County website
- 6. "Major Points for Golden Proponents and Opponents", Kaup memo, 8/4/21
- 7. Presentation, with handout, by Tom Stiles, Director, Bureau of Water, KDHE, 8/25/21
- 8. Presentation, with handout, by Lesley Rigney, District Manager/Watershed Coordinator, Miami County Conservation District, responding to Tom Stiles presentation, 9/1/21
- 9. Presentation by Jerry Bennett, General Manager, Miami County, RWD No. 2, video, 8/25/21
- 10. Presentation by Allan Soetaert, District Manager, Johnson County Water District No. 7 video, 8/25/21
- 11. Presentation by Nathan Westrup, Chief of Hydrology and Evaluation, Kansas Water Office, video, 8/25/21
- 12. Report "Hillsdale Watershed Restoration and Protection Strategy", 2017, presented 9/1/21

13. Report “Marais des Cygnes Regional Planning Area, State of the Resource and Regional Goal Action Plan Implementation Report” August 2018, presented 8/25/21
14. “Summary of Draft Comp Plan’s ‘Public Survey’”, Kaup memo, with attachment, presented 9/8/21